

A meeting of the Jasper County Board of Zoning Appeals was held Monday, November 27, 2017 at 7:00pm. in the Commissioners' Room of the Jasper County Courthouse, Rensselaer, Indiana. Members present: Kent Korniak, Jim Martin, Scott Walstra and Lance Strange. Also present: Todd Sammons, Randle and Sammons, Administrative Attorney; Mary Scheurich, Director and Kelli Standish, Secretary. Absent was: Mark Jordan.

Meeting was called to order by Chairman Jim Martin. The Pledge of Allegiance was recited. The first order of business was the call for approval of the August 2017 minutes.

Kent Korniak made the motion to approve the August 2017 minutes. Motion was seconded by Scott Walstra and carried unanimously.

Special Exception

Cause#BZA-6-17

Applicant: Charles Owen

Location: Sec. 32-32-6 – Wheatfield Twp. - Lot 2 Krizman Park – St.Rd. 10 W. of 400W. S-side
Use: Storage Rental Facility (U locks)

Public hearing held pursuant to notice published July 12, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Jim Martin stated that Charles Owen has talked to the Planning and Development office and he has withdrawn his application for a Special Exception at this time.

Special Exception

Cause#BZA-7-17

Applicant: Gregory and Amy Satoski

Location: Sec.15-31-5 – Walker Twp. 850N. E. of 300E. N-side
Use: Mining of a Sand Operation for a pond

Public hearing held pursuant to notice published October 24, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Greg Satoski was present and stated that he has been in the excavating business for about 35 years. He is planning on moving sand for Companies that are in need of sand. This could be a sporadic project depending on companies that would need some sand. He will strip the top soil off and place it around the outside where it will be used later. They will dig the sand in wind rows to give it time to dry and then haul it out. It could take a week for the sand to dry or it may be dry over night, it depends on how much silt is in the sand. At no point after the contractor is done will there be any piles left. The company will get the amount of sand they need in the

quickest time they can get it. After the job is finished the company will slope all the banks, put the black dirt down and seed it with grass as if he would never sell another piece of soil. He does not own or intend on owning any equipment. The remainder of the land will go back to farm ground, until he gets another job. He could have a company come in next year and get some sand and then it might be a couple more years before another company comes back to get some. He's not bonding the roads, that will be up to the company to do. He is not doing small jobs only big jobs. There is some concern about the drainage and the property has a lot of ditches already on it. He has talked with Jasper/Pulaski Fish & Game Preserve and they do not want to lose their water but they also do not want anymore. He is proposing to leave the ditches as they are and if he is asked to clean them he will. There is a concern that he will dig too deep and break through the clay layer that is there which holds the water in the wetland. The United States Department of Inter and Division of water resources, Indiana Department of Conservation did a study and have done 3 studies close to the proposed property. There were 3 wells that were drilled that were close to the property. The first well is 31.516 and that shows drift soil which is sand stone with a little bit of clay which is a good material for roads since it packs hard. It doesn't move away. That shows it running at 64 ft. deep and then your shale and lime start after that. He will never reach that depth. The second is 22 which shows sand and gravel down to 30ft. and then an additional 38 ft. of drift, which is sand, gravel, silt and clay down to 68ft. The third well shows the clay level a little bit higher at 49ft. which the projects will never go that deep without pumping and moving water which is not going to happen. The water is going to stay as it is. The water is in the soil he is just taking the sand out and letting it fill back up. The only difference for the water table will be that you will be able to see the water in the ponds verses it being in the ground. He has been asked why this property to dig his ponds and he feels this is the best place for digging ponds. He is after the wildlife and the nature there. He feels this project will fit in perfect with what is located around the property. The downside of it all is that he cannot control the wildlife especially the geese. I am sure there will be geese, deer and there will be some farm damage, but there is a nature preserve in the area. They are already there, that is nature and he cannot control that. He feels he is not doing anything any different than what other people have already done in the county. He feels this is no different than what Kendell Culp has done. For the project Kendell Culp was involved with, NIPSCO needed clay so the contractor came in and bonded the road they hauled the clay off and did end up breaking some tiles on the property. They fixed the tiles and fixed the property up and moved out. It should be very low impact to the area. There will not be sand piles on the property therefore there will not be any sand blowing. He is proposing to have 2 ponds on the property with the ditch in the middle. He will be 100ft. from the North and East property lines. If he has a farmer come to him that is having problems with his field draining then he will clean the ditch. Cleaning a ditch is minuet for him because what he plans to do is when the company contacts him for sand he will say ok first we need to clean this ditch. That will be part of their agreement.

Scott Walstra stated that you said you would be 100ft. from the property lines but our code book states you need to be 200ft. from any agricultural property.

Greg Satoski replied that he spoke to Mary Scheurich and she thought maybe it would be acceptable if he was only 100ft.

Mary Scheurich replied that she stated that it is a possibility that would be accepted but

she cannot make that determination. The 200ft. makes it difficult for anybody that wants to put a pond on their property.

Scott Walstra asked how far does he need to stay away from the wetlands?

Mary Scheurich replied that we do not have any set-backs as to how far he needs to stay away from wetlands in the County Code book.

Greg Satoski replied that he has spoken with IDEM today and they have looked at his proposed plan and stated that as long as he is out of the wetland you can do whatever you want to. There is an existing 24 foot culvert that he will enlarge it to a 40ft culvert and the other one is 12 inches and he will enlarge that to 18 inches.

Kent Korniak asked if there will only be one way in and one way out of the property. What will be the hours the trucks will be in and out?

Greg Satoski replied affirmatively. In his experience they like to work 6am to 6pm. He has never worked a Sunday doing this type of work.

Scott Walstra asked how deep do you think you will be digging.

Greg Satoski replied that his realistic guess would be at least 17ft. deep.

Scott Walstra stated that we have had an issue in the past where the developer left a huge sand pile and when the wind would blow it blows into the surrounding properties. What are you going to do to prevent this from happening?

Greg Satoski replied that he does not think it is going to sit there long enough for there to be a problem with that. Dust control is going to be part of the contract as well. They will have to manage the dust/sand if it starts to blow. They may need to water the pile down so it doesn't blow. They will also have to water the drive since that will be sand if there becomes a problem with blowing.

Scott Walstra asked if Greg Satoski owns the property.

Greg Satoski replied in the negative and stated that the sale is subject to him obtaining approval to sand mine.

Scott Walstra stated that he knows the property to the west of the proposed application is very wet. He does farm the property but it is very wet.

Jim Martin stated that you have already went before the Drainage Board, correct?

Greg Satoski replied affirmatively. The drainage board tabled the application to the next meeting date since they did not have enough time to look at the property. Since the last meeting Vince Urbano has been able to go and look at the property. He then asked Vince Urbano if he

has any concerns about the drainage.

Vince Urbano stated that he was able to go and look at the property. After meeting with the Regulatory Agencies he does not have any concerns with the drainage. They did notice that there are a lot of wetlands in the area. There are a few things that Commissioner Kendell Culp and he need to look at before the next drainage board meeting. That is a county main drainage ditch that runs through the proposed property. He knows there are some concerns about there being areas that need to be cleaned, but he also heard from the DNR office that they do not want the ditches to be cleaned.

Greg Satoski replied that it is minimal for him to have to clean the ditches. From what he has been told just like Vince Urbano stated that the DNR does not want the ditches to be cleaned, they want the water to stay where it is currently. He doesn't want to drain the wetlands in the area, that is not his intent.

Jim Martin asked if anyone present had any opposition to the application.

Hans Markland was present and stated that he owns property across the street and to the West of the proposed application. This is good farm ground and he is afraid if the application is approved he will start having problems with his farm ground. He has had problems with Beaver's blocking his ditches in the past. The Jasper-Pulaski Game Preserve is a huge water reservoir if you go digging a big pond like you are requesting you have no idea what you are getting into. There could be so much water coming out of the property that your culvert can not hold it, it will then flood him out. He wants to see drainage on the property and he feels this project will be very detrimental to his property. When you dig a pond that large you are bringing in wildlife and waterfowl that are federally protected. There will be geese and ducks that will be on the fields eating the crops and you cannot shoot them because they are protected by the Federal. There is not a maintenance fund for the ditches in this area. He is concerned about the conditions of the roads since they are a chip and seal road not a black topped road. He presented information regarding Waterfowl/Migratory Birds that have caused damage in other states. There is a poultry farm south of the proposed application which he feels the added geese will cause problems with the disease issues the other states have had in the past. He feels this is the wrong place to do sand mining. We need drainage in this area so for him to say that no one wants the ditches to be touched is false. Greg Satoski doesn't live in Jasper County which means he doesn't pay taxes in the county like Hans Markland does.

Tina Voyak was present and stated that she lives at 3490E. 850N., Wheatfield which adjoins the proposed application. She has many concerns regarding the proposed application. One of her concerns is they will have problems with their well. The water table is already high in the area. She is also concerned about the sand blowing onto their property. She doesn't think the proposed application fits in with the Master Plan of the county.

Victor Gillette was present and stated that he lives at 3492E. 850N., Wheatfield which adjoins the proposed application. He is also concerned about his well. He is concerned that the project will only be 100ft from his property which his well is close to his back property line. What kind of guarantee do we have that this project won't be going on for 20 years or so? We

don't want the added truck traffic in the area along with the diesel smell. He has seen flooding in the area and does not want the proposed application to cause anymore water damage.

Jim Bergens was present and stated that he is with the DNR and he just wanted to clarify that they do not want the legal drain vacated, they do not care if the ditch gets cleaned or not. We do not have any farm ground that would be affected by this project.

Jim Martin asked if there was anyone here from Nature Conservancy that wanted to speak in regards to the proposed application. There was none.

(?) Jim Bergens stated that they were going to send you a letter. Did you receive a letter from them?

Mary Scheurich replied in the negative. We have not received a letter/email from them.

Greg Satoski stated that he sent all the paperwork he had regarding the wells to John Shuey with the Nature Conservancy since he was concerned about them.

Jim Bergens stated that he believes the soils in the proposed area are Maumee soils which mean they are wet but they can also dry out fast. When the Nature Conservancy purchased their land to the north of the propose application they plugged the ditch that comes from the north and as the water level equalized on their property it increased everywhere which is probably one of the reasons there was such an issue on Mr. Pfledderer property. There are some unknowns when you start tinkering with closing ditches. They have dug several ponds on the state ground and none of them have ever overflowed.

Scott Walstra asked how do you regulate bonding of the roads? How do you have each contractor bond the roads since this could be going on for several years? What route will the trucks be taking?

Mary Scheurich replied that the Planning and Development office does not regulate the bonds. The County Commissioners do, along with the County Highway Department. She is not sure how the bonding will work since there could be several contracting companies hauling sand out.

Kent Korniak asked if this is going to be a lake or have 2 ponds on the property. The property is zoned A1 but he is concerned with this being a high end project and not just a recreational pond that he has some concerns about the size that is being presented to the board members. Do we have any other projects in the county that is this big in size?

Mary Scheurich replied that the only one she can think of that would be of a large size would be Sandy Bottoms which is located south of Rensselaer.

Scott Walstra asked how many acres would the lake be in size once you are completely done with the project.

Greg Satoski replied that after the project is complete the front pond will be 12.9 acres and the back one will be 13 acres in size on roughly 50 acres of property.

Jim Martin asked that according to your dimensions you will be 100ft. off the property lines.

Greg Satoski replied affirmatively and the one pond will be 140ft. from the property line. On the side where the easement runs he believes he is at 60ft. and then a 40ft. easement which will make him a 100ft. from the center of the ditch. The easement is just a lane and is not being farmed.

Scott Walstra stated that our code book states that ponds need to be 200ft. from agricultural land, so he would need a variance on the North and West side of the property if he remains to only be 100ft. He is concerned about the conditions of the roads since there is going to be a lot of trucks in and out of the property.

Greg Satoski replied that he could meet the 200ft. set-back which will only affect one of the ponds, but that would move it closer to the neighbors property and he figures they do not want it that close to their property. He is just trying to do what the other people are doing in the county as far as sand mining. He has done so much in preparing for this application that he does not know what more he can do. He has Rule 5 permits, IDEM permits and he has talked to the DNR office. Does he need to change his plans so he meets the 200ft. requirement or can he apply for a variance?

Scott Walstra replied that he can apply for a variance for the set-back but that doesn't guarantee that it will get approved.

Kent Korniak made the motion to continue the application to the next meeting date which will be December 20th, 2017 at 7:00 (since the courthouse is closed on the 4th Monday due to it being Christmas) due to the fact that he does not have Drainage Board Approval and that board has some pending issues, also the set-back needs to meet our requirement or apply for a variance and we need to know more about how to handle the bonding. Motion was seconded by Lance Strange and carried unanimously.

Variance

Cause#BZA-8-17

Applicant: Jason Stalhandske

Location: Sec.9-31-5 – Walker Twp. - Wireman's Re-plat of lot 3 Wood's Sub'd. No.2

Use: Asking for a 7ft. lot rear yard set-back variance instead of the required 35ft.

Public hearing held pursuant to notice published October 24, 2017 in the Rensselaer Republican, a daily newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners given by certified mail, return receipts requested. All as shown by the affidavit of Becky Coffey, Clerk of the Rensselaer Republican, and return receipts submitted by the applicant.

Jason Stalhanske was present and stated that he purchased the property with an existing home on it. He buys house's and flips them and then resells them. He had the property surveyed and noticed that the existing house is over the rear yard set-back line which has caused a problem with the Title Company. He lost the sale to the house because the Mortgage Company wouldn't close on the property until this issue was taken care of. He is asking for a variance for the rear yard set-back to be granted from the required 35ft. set-back to a 28ft. rear yard set-back.

Mary Scheurich stated that when the Builder obtained the permit for the home they showed that the home would be placed right on the front property line. At some point the home was moved and constructed towards the back of the property not where they located it on the drawing. The home has been there for approximately 15 years.

Jim Martin asked if anyone present had any opposition to the application. There was none.

Jim Martin then read the proposed facts of findings that have been provided to the board members.

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

RESPONSE: This will not harm any party.

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

RESPONSE: This home has been in place for 15 years and has not affected anyone.

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

RESPONSE: I am not able to sell because of this problem please help me resolve and grant me the variance needed to existing home.

The board agreed to adopt the findings of fact as present by the applicant.

Kent Korniak made the motion to grant approval for the variance of the rear yard requirement from 35ft. to 28ft. Motion was seconded by Lance Strange and carried unanimously.

Jim Martin stated that there is a motion to approve the application, and the board must consider the findings in Article 9, Variance 9.19 (7)(b)(i) through (ii).

Jim Martin then read these to the Board:

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

The board unanimously voted that the applicant met the requirements of (iii).

Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

Jim Martin, Chairman